

1. The Secretary's Complaint alleges that Defendant violated Sections 103(a) and 108(a) of the Act, 30 U.S.C. §§ 813(a) and 818(a), by permitting advance notice of inspections by authorized representatives of the Secretary to be communicated from the surface operations to persons working underground at its Mine 78 mine on August 12, 2010, and at its Tracy Lynne mine on November 4, 2010.

2. For purposes of this Consent Judgment, Defendant agrees that this Court has jurisdiction over the subject matter of this action and over Defendant.

3. The Secretary has agreed to resolve all claims against Defendant for the following relief and this Court finds that the Secretary is entitled to such injunctive relief. It is therefore **ORDERED, ADJUDGED and DECREED** that:

For the period from the date of entry of this Judgment until December 31, 2011, Defendant, its officers, servants, and employees, shall be enjoined from giving advance notice in violation of Section 103 of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801, et seq. to any person working underground, of an inspection at Defendant's Mine 78 or Tracy Lynne mines by the Mine Safety and Health Administration, United States Department of Labor. Advance notice constitutes any means of communication including, but not limited to, the mine telephone or any other device and includes any use of signals or devices intended to give notice of an inspection. Notice may only be given when an inspector from the Federal Mine Safety and Health Administration specifically orders that such notice be given as an exception to the prohibition as provided for in the Act.

4. Defendant understands and agrees that entry of this Consent Judgment is without prejudice to the Secretary's right to investigate, redress and institute enforcement actions with respect to any future violations of the Act. It is further understood that this paragraph shall not constitute a waiver by Defendant of any defenses, legal or equitable, to any such future action.

5. The parties agree that Defendant is not hereby admitting or denying any liability by consenting to this Judgment and is entering into this agreement in order to settle

this matter without formal litigation.


6. Each party agrees to bear its own attorneys' fees, costs and other expenses incurred by such party in connection with any stage of the above-referenced proceeding including, but not limited to, attorneys' fees which may be available under the Equal Access to Justice Act, 5 U.S.C. § 504.

7. This Consent Judgment shall operate as a final disposition of all civil claims asserted by the Secretary against Defendant in the Complaint as well as any investigations related to the allegations in the Complaint.

8. This Court retains jurisdiction of this action for purposes of enforcing compliance with the terms of this Consent Judgment.

9. This Court directs the entry of this Consent Judgment as a final order in the above-captioned matter.

Dated: May 17, 2011

  
JUDGE KIM R. GIBSON  
United States District Court

[signatures continue on next page]

Notwithstanding any answer and  
waiving further answer, Defendant  
Rosebud Mining Co. consents to  
the entry of this Consent Judgment:

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